

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DARRYL ANDERSON, et al.,

Plaintiffs,

v.

PERDUE FARMS INCORPORATED,

Defendant.

**Case Action No.:
1:06-CV-1000-MEF-WC
JURY TRIAL DEMANDED**

**CONSENT MOTION FOR EXTENSION OF TIME FOR DEFENDANT TO
RESPOND TO PLAINTIFFS' MOTION FOR AN ORDER PERMITTING
COURT-SUPERVISED NOTICE TO EMPLOYEES OF THEIR OPT-IN RIGHTS**

Defendant Perdue Farms Incorporated ("Defendant"), with the consent of Plaintiffs in the above-captioned case, and, through its undersigned counsel, moves this Honorable Court for an extension of time in which to file its pleading in response to Plaintiffs' Motion for an Order Permitting Court-Supervised Notice to Employees of Their Opt-In Rights. In support of this Motion, the parties show the Court as follows:

1. On November 5, 2007, Plaintiffs filed a Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-in Rights ("Notice Motion"). Pursuant to this Court's November 13, 2007 Order, Perdue's response to Plaintiffs' Notice Motion is due November 26, 2007, and Plaintiffs' reply brief is due December 3, 2007.

2. On November 13, 2007, Brian Z. Liss, counsel for Perdue, contacted Robert Camp, counsel for the Plaintiffs, and informed him of an existing scheduling issue in another case pending in federal court that conflicts with Perdue's Court-ordered briefing schedule in this case. In particular, counsel for Perdue is preparing a response to class notice in another matter that is due on December 4, 2007.

3. Mr. Camp acknowledged that counsel for Perdue has been courteous to Plaintiffs' counsel in allowing extensions in the past, and that Plaintiffs' counsel would like to reciprocate.

4. In light of these scheduling issues, and in an attempt to resolve issues effectively and efficiently, the parties' counsel in this case have conferred and have agreed to extend the briefing deadlines in this case. The requested extension of time allows counsel for Perdue adequate time to respond to Plaintiffs' Notice Motion, and also accommodates the parties' busy schedules during the holiday season.

5. Specifically, counsel for the Plaintiffs suggested and counsel for Perdue agreed that the parties would jointly propose the following:

- (a) The deadline for Perdue's opposition to Plaintiffs' Motion for an Order Permitting Court Supervised Notice to Employees of Their Opt-in Rights will be extended from November 26, 2007 to January 14, 2008.
- (b) The deadline for Plaintiffs' reply in support of their Notice Motion will be extended from December 3, 2007 to January 21, 2008.

6. The parties also jointly propose that the statute of limitations applicable to the Fair Labor Standards Act claims of any individual Plaintiffs or any individual who opts-in to this action and who is represented by Plaintiffs' counsel shall be tolled between November 26, 2007 to January 14, 2008.

7. This cause of action is a collective action brought pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and the requested extension should not unduly delay these proceedings.

8. In addition, there is a potential discovery issue that the parties would like to bring to this Court's attention. Perdue would like to take the depositions of approximately 6 or 8 of the

31 Plaintiffs who filed Declarations in support of Plaintiffs' Notice Motion. It is Perdue's position that it needs to conduct this discovery to be able to respond to the Notice Motion, and that it is permitted to do so pursuant to the Court's Scheduling Order in this case

9. Plaintiffs, however, maintain that the litigation should proceed under the two-step analysis set forth in *Hipp* and that these depositions are not necessary for Perdue to respond to Plaintiffs' Notice Motion. Plaintiffs argue that their Notice Motion should be decided on the pleadings and affidavits alone.

10. As indicated above, the parties' counsel in this case have a courteous working relationship and as such will attempt to resolve this discovery-related issue without any Court intervention. Should the parties' efforts fail, however, the parties will file motions addressing the discovery issue as it relates to Plaintiffs' Notice Motion. If discovery motions are filed, the parties agree that Perdue's response to Plaintiffs' Notice Motion should not be due until this Court issues a ruling on whether Perdue is entitled to take certain depositions prior to responding to Plaintiffs' Notice Motion.

WHEREFORE, premises considered, the parties request this Honorable Court grant this Motion and allow Perdue until January 14, 2008 respond to Plaintiffs' Motion for an Order Permitting Court-Supervised Notice to Employees of Their Opt-In Rights.

The parties hereto have agreed that Brian Z. Liss will e-file this Consent Motion.

Dated: November 19, 2007

Respectfully submitted,

/s/Brian Z. Liss

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Defendant Perdue Farms Incorporated's Consent Motion for an Extension of Time for Defendant to Respond to Plaintiffs' Motion for an Order Permitting Court-Supervised Notice to Employees of Their Opt-In Rights has been electronically filed on this **19th day of November, 2007** using the CM/ECF system which will send a notice of electronic filing as well as the full text of the Consent Motion to Plaintiffs' counsel of record who are confirmed to be individually registered for e-filing and will receive the same electronically from the Court.

/s/Brian Z. Liss

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